BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 1, 2 and 21 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands	)	PR Docket No. 92-80

To: The Commission

PETITION FOR PARTIAL RECONSIDERATION

The Consortium of Concerned Wireless Cable Operators (the "Consortium"),[1] by counsel and pursuant to Section 1.429 of the Commission's Rules, hereby respectfully requests partial reconsideration of the Report and Order, PR Docket No. 92-80, FCC 93-31, released February 12, 1993 ("Order").[2] Specifically, the Consortium urges the Commission to clarify certain language in its decision that could be construed to limit the ability of wireless

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[1] The Consortium consists of the following wireless cable

cable operators to enter into channel lease agreements with MDS applicants or conditional licensees containing options to purchase

number of speculative applications that in the past have served only to divert scarce Commission staff resources from expeditiously processing legitimate applications filed by legitimate applicants.

[redacted]

assembling adequate channel capacity and developing markets.

The Consortium asks that the Commission clarify that its prohibition applies only to option agreements among mutually

payments from the wireless operator. Absent lease terms giving the wireless cable operator an exclusive purchase option or a right of first refusal, greenmailers could bid up the purchase price or even purchase the channels, never intending to operate them, and offer them to a needy operator for a usurious sum.

Third, option agreements facilitate competition with cable. In eliminating certain MDS ownership restrictions, the Commission recognized that, in most cases, a single wireless operator must secure as many channels as possible in a market in order to compete with traditional 50 plus channel cable systems. See Report and Order, 5 FCC Rd 6410, 6411 (1990). Most markets simply cannot accommodate competing wireless systems. Moreover, noting the inherent burdens in assembling channels lease by lease, the Commission has recognized that direct ownership of channels by wireless operators greatly facilitates channel acquisition, market

II. THE COMMISSION SHOULD FURTHER SIMPLIFY RULES CONCERNING AUTHORIZATION OF SIGNAL BOOSTER STATIONS.

A. The Commission Should Permit Installation of High-Power Booster Stations Without Prior FCC Authorization.

In the Order, the Commission amended Sections 21.913(g) and 74.985(g) to simplify procedures for licensing of low-power (-9 dBW EIRP) signal booster stations. Under the new rules, licensees can install low power booster stations without prior Commission authorization provided they certify compliance with the FCC's technical standards within 48 hours of installation.

The Consortium urges that the certification procedures adopted in the Order be applied to high-power (18 dBW EIRP) signal boosters upon a certification that the booster station complies with Section 21.913(a) or 74.985(a), as appropriate. The Commission's primary objective -- ensuring interference protection and maintaining the signal inside the protected service area -- can be satisfied with a certification. Moreover, as is the case with low-power boosters, the burdens on Commission staff and MDS licensees in preparing and reviewing detailed modification applications would be eliminated, thereby preserving scarce resources.

This vastly simplified procedure would amount to a tremendous economic savings for wireless cable operators. It is estimated that the engineering and legal fees associated with preparing booster applications for all licensees in a given system would approach $10,000. This is an extraordinary sum, especially since an off-the-shelf signal booster can be purchased for substantially less. Eliminating onerous rules that serve no purpose would reduce

this expense.

Simplification of the current filing requirements would also encourage the installation of signal boosters. The obvious benefit would be the provision of wireless cable service to subscribers otherwise unable to receive the signals which, in turn, would facilitate competition between wireless cable, cable and other video distribution technologies.

B. Wireless Cable Operators Should Be Allowed To Install and Operate Low-Power Signal Booster Stations.

As the Consortium pointed out in its Comments, the Commission's rules draw a distinction between applicants eligible to apply for signal booster authorizations. See Consortium's Comments at p. 25, n. 25. Pursuant to Sections 21.913(a) and 74.985(a), wireless cable operators are eligible to apply for 18 dBW EIRP booster authorizations, but pursuant to Sections 21.913(g) and 74.985(g), only MDS and ITFS licensees are eligible to be authorized to use -9 dBW EIRP booster stations.

This distinction has adverse and burdensome consequences for wireless cable operators seeking to install low-power booster stations. Operators must first obtain the consent of every MDS and ITFS licensee and have them separately certify that the booster station complies with FCC rules. These procedures are not only time-consuming, onerous and unnecessary, but could lead to complications if one licensee, for some reason, does not cooperate. The operator would then face the Hobson's Choice of boosting some of the signals and having uneven coverage throughout the service

area, or not installing the booster stations and rendering certain operations of its service area dark. On reconsideration, the Commission should resolve this anomaly in the rules by permitting wireless cable operators to install low-power signal boosters.

III [redacted]

expand wireless cable service to small, rural areas where it is not technically or economically feasible to provide service on a full-power basis. Some rural areas lie between markets currently served by wireless cable systems, and it would not be possible to design a full-power system to serve such an area. Even if it were technically feasible, the small subscriber base does not justify construction of a full-power system. Many rural communities will derive the additional important benefit of ITFS service to provide enhanced educational and instructional programming emanating from the booster service.

Low-power booster stations of the type described above also would enable wireless cable service to be provided on an interim, secondary basis pending disposition of backlogged applications and the construction of new stations. Once systems in these markets commenced operation, the booster station would be required to cease operating and the booster station operator would presumably transfer its subscribers to the new system.

These procedures will expand the scope of wireless cable service in a spectrum-efficient and cost-effective manner, without additional administrative burdens and without causing interference. Smaller communities otherwise unable to receive wireless cable service would obtain the benefits of entertainment and educational programming. The Commission's track record with FM and TV translators and booster stations, and the adoption of similar safeguards here, will ensure the provision of a significant public benefit.

Conclusion

The Consortium urges the Commission to clarify language in the Order so as to make clear that option agreements between MDS applicants and conditional licensees on one hand, and wireless cable operators on the other hand, are permissible. The rules concerning MDS and ITFS signal booster stations also should be amended in order to facilitate wireless cable service and reduce administrative burdens.

Respectfully submitted,

THE CONSORTIUM OF CONCERNED WIRELESS CABLE OPERATORS

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